Chapter 314-52 WAC

ADVERTISING

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-52-005 Purpose and application of rules.

1. The liquor control board regulates alcohol advertising to promote public safety, prevent the misuse of alcohol and reduce youth exposure to alcohol advertising and marketing. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

2. No person engaged in business as a manufacturer, importer, distributor, or retailer of liquor shall publish or disseminate in any media any advertisement of liquor, unless such advertisement is in conformance with these rules.

3. The board holds each manufacturer, importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

4. Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, are intended for placement in retail outlets of the Washington state liquor control board. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

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WAC 314-52-010 Mandatory statements. (1) Brand advertising of spirituous liquor by any manufacturer shall contain the following information:
   (a) The name and address of the manufacturer responsible for its publication. (Street may be omitted.)
   (b) A conspicuous statement of the class to which the product belongs and the type corresponding with the statement of class and type which is required by federal regulations to appear on the label of the product.
   (c) A statement of the alcoholic content for distilled spirits shall be stated in percent alcohol by volume.
   (d) In the case of distilled spirits produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled.
   (e) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled.

   (2) Brand advertising of wine by any manufacturer or distributor shall contain the following information:
      (a) The name and address of the manufacturer or distributor responsible for its publication. (Street may be omitted.)
      (b) A conspicuous statement of the class, type or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required by federal regulation to appear on the label of the product.

   (3) Brand advertising of malt beverages by any manufacturer, importer, or distributor shall contain the following information:
      (a) The name and address of the manufacturer, importer or distributor responsible for publication of the advertisement. (Street may be omitted.)
      (b) A conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required by federal regulations to appear on the label of the product.

WAC 314-52-015 General. (1) Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors. All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that:
   (a) Is false or misleading;
   (b) Promotes over consumption;
   (c) Uses the Washington state liquor control board's seal or refers to Washington state liquor control board, except where required by law;
   (d) Represents the use of liquor has curative or therapeutic effects, if such statement is untrue or tends to create a misleading impression;
   (e) Implies the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration that refers to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to any known athlete's athletic achievements;
   (f) Depicts a child or other person under legal age to consume liquor, or includes:
      (i) Objects, such as toys or characters, suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume liquor; or
      (ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.
   (g) Is targeted principally to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior for persons under twenty-one years of age; or
   (h) Uses subliminal or similar techniques. "Subliminal or similar techniques" as used in this section, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

   (2) If advertising claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:
      (a) Cite the name of the author and date of the research or study supporting the claim; and
      (b) Provide a copy of this research or study to the board.

WAC 314-52-030 Liquor advertising prohibited in school publications. No liquor advertising shall:
   (1) Be carried in any publication connected or affiliated with any elementary or secondary schools; or
   (2) Be connected with such schools in any media.
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WAC 314-52-040 Contests, competitive events, premiums and coupons. (1) Liquor advertisements may offer consumers premiums or prizes, upon completion of any coupon, contest, or competitive event, which may or may not require proof of purchase of the advertised product. Provided, that:
(a) No one under twenty-one years of age is allowed to participate, and no premiums, prizes, coupons, contests, or competitive events are targeted to persons under twenty-one years of age;
(b) Contests or sweepstakes that offer prizes or premiums to consumers through a game of chance or random drawing, shall not require proof of purchase, and must comply with the requirements of RCW 9.46.0356 regarding gambling.

(2) Liquor advertisements are prohibited by manufacturers, importers, or distributors that:
(a) Offer any premium or prize redeemable through a Washington state liquor store or any retail liquor outlet licensed by the state of Washington, such as "instant" or "in-store" redeemable offers;
(b) Offer an "instant rebate" on either liquor or nonliquor items; or
(c) Offer any premium redeemable through retail outlets prohibited by the advancement of "money or money's worth" from a nonretail licensee to a retail licensee in chapter 66.28 RCW.

(3) A retailer may have its own coupon offers, provided the "after rebate" price does not put the product below cost, and provided there is no undue influence by a nonretail licensee, the coupon is at the retailer's free initiative and the retailer is covering the entire cost.

WAC 314-52-050 Sound truck advertising prohibited. No liquor advertising shall be permitted by use of sound trucks.

WAC 314-52-070 Outdoor advertising. (1) "Outdoor advertising" by manufacturers, importers, distributors, and retail licensees for these purposes shall include all signs affixed or hanging in the windows and on the outside of the premises visible to the general public from the public right of way, advertising the sale and/or service of liquor, excluding trade name and room name signs.

(2) The board limits each retail licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way to sixteen hundred square inches.

"Sign" is defined as a board, poster, neon, or placard displayed to advertise.

A local jurisdiction has the option to exempt liquor licenses in their jurisdiction from the outdoor advertising restrictions in this section through a local ordinance.

(3) Outdoor signs shall be designed, installed, and in compliance with all liquor advertising rules. These rules include, but are not limited to:
(a) WAC 314-52-015 which contains advertising prohibitions; and
(b) WAC 314-52-110 which contains advertising requirements by a retail licensee.

(4) Prior board approval is not required before installation and use of outdoor advertising; however, outdoor advertising not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit a copy to the board for approval.

(5) No outdoor advertising of liquor except in subsection (2) of this section, shall be placed within five hundred feet of schools, places of worship, public playgrounds, or athletic fields used primarily by minors where the administrative body of said schools, churches, public playgrounds or athletic fields object to such placement, or any place which the board in its discretion finds contrary to the public interest. "Tourist Oriented Directional Signs" per RCW 47.36.320, are exempt from this requirement.

The five hundred foot distance for outdoor advertising is measured from the property line of the school, place of worship, public playground or athletic field to the outdoor advertising.
WAC 314-52-080 Novelty advertising. (1) Novelty branded promotional advertising items which are of nominal value, singly or in the aggregate, may be provided to retailers by industry members. Singly or in the aggregate is per licensed location. Such items include, but are not limited to: Trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottle or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(a) Must be used exclusively by the retailer or its employees in a manner consistent with its license;
(b) Must bear imprinted advertising matter of the industry member only;
(c) May only be provided by industry members to retailers and their employees;
(d) May not be provided by or through retailers or their employees to retail customers.

(2) An industry member is not obligated to provide any branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(3) Any industry member, retailer, or other person asserting the provision of branded promotional items has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in subsection (1) of this section, may file a complaint with the board.

Upon receipt of a complaint the board may conduct an investigation as it deems appropriate in the circumstances.

(a) The board may issue an administrative violation notice to the industry member, to the retailer, or both.
(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(4) An industry member or their employee, may sell, and a retail licensee may purchase, for use, resale, or distribution on the licensed premises any novelty advertising items. The price shall be not less than the industry member’s cost of acquisition. In no event shall credit be extended to any retail licensee. The purchase by retail licensees of such items shall be supported by invoices or signed vouchers which shall be preserved for three years on the licensed premises and available for immediate inspection by board enforcement officers.

(5) An industry member who sells novelty advertising items to retail licensees shall keep on file the original or copy of all sales slips, invoices, and other memoranda covering all purchases of novelty advertising items by the industry member and shall also keep on file a copy of all invoices, sales slips, or memoranda reflecting the sales to retail licensees or other disbursement of all novelty advertising items. Such records shall be maintained in a manner satisfactory to the board and must be preserved in the office of the industry member for a period of at least three years after each purchase or sale. Any manufacturer which does not maintain a principal office within the state shall, when requested, furnish the above required records at a designated location within the state for review by the board.


WAC 314-52-085 Programs and program folders.

Programs and program folders, for the purpose of this section, shall mean brochures for use at sporting arenas which have, as a part of their operations, whether directly or indirectly, a retail licensed premises. No manufacturer, importer, distributor, or their agent, shall provide, without cost, directly or indirectly, programs or program folders for retail licensees, however:

(1) A premises holding a sports entertainment facility liquor license may accept bona fide liquor advertising from manufacturers, importers, distributors or their agents, for publication in the program or program folder of the sports entertainment facility liquor license; and

(2) Advertising is paid for by said manufacturer, importer, distributor or their agent at the published advertising rate for all program or program folder advertisers, including nonliquor advertisers.

WAC 314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or distributors.

(1) The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer, importer or distributor, except:

(a) To produce brochures and materials promoting tourism in Washington state;
(b) A manufacturer, importer, or distributor may list on their web sites information related to retailers who sell or promote their products.

(2) The brand name of liquor may appear in or as a part of advertising by a retail licensee: Provided, such advertising is upon the retail licensee's free initiative and no moneys or moneys' worth has been offered or solicited as an inducement to secure such mention of any manufacturer, importer, or distributor's product.

(3) A professional sports team who holds a liquor license may accept liquor advertisements from manufacturers, importers, or distributors for use in sports entertainment facilities and may allow a manufacturer, importer, or distributor

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Advertising 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or distributors may furnish brand signs and point-of-sale material to retailers under the following conditions:

(1) The brand signs and point-of-sale material shall have no value to the retailer except as brand advertisement; such signs as those that provide illumination for cash registers, pool tables, and other parts of the premises, have a functional value and are not authorized. The brand signs and point-of-sale material shall remain the property of, and be the responsibility of, the manufacturers, importers or distributors.

(2) Giant inflatables, such as inflated beer cans, bottles, and banners may be provided as point-of-sale to retailers for...
display purposes inside the licensed premises, provided the following conditions are met:

(a) Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or distributors to customers in conjunction with the display;

(b) Inflatables are not targeted or appeal principally to youth; and

(c) The display shall be removed if objected to by local officials, or if the board finds it contrary to the public interest.

(3) Costumed individuals representing wine, beer, or liquor manufacturers may be provided as point-of-sale to retailers for display and promotion purposes on their property, provided the following conditions are met:

(a) The costumed individual is limited to the manufacturer, importer, distributor, or employee thereof and the costumed individual's activities on-premises are limited to socializing with customers and not conducting any activity that the retail licensee would otherwise have to assign employees to;

(b) Novelty items as defined in WAC 314-52-080 and the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;

(c) The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC 314-11-050);

(d) The costumed individual may not be targeted or appeal principally to youth; and

(e) The board may prohibit the use of costumed individuals if the use is contrary to the public interest.


WAC 314-52-115 Advertising by clubs—Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a premises open to the public, or that social functions at which club liquor may be consumed, are open to the public. Clubs that provide lunch or dinner to the public may advertise but must specify no liquor service is available.

(2) Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media under the following conditions:

(a) Advertising must be clearly directed to their membership only;

(b) Advertising cannot be construed as implying that the general public is welcome to attend; and

(c) Advertising club functions with placards placed for public viewing shall be governed by (a) and (b) of this subsection.

WAC 314-52-110 Advertising by clubs—General prohibitions.

(3) Advertising may be directed to the public generally in connection with events of special public interest under provisions set forth in WAC 314-40-080(3).

(4) A private club may hold a public membership function as outlined in WAC 314-40-040(6). The function must be advertised as a membership drive.

(5) Clubs shall not advertise the events held with the nonclub event endorsement per RCW 66.24.425(3).

(6) Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so provided:

(a) Such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain:

(i) Any announcement of opening or closing hours;

(ii) Any invitation to visit the club; or

(iii) Any statement which may be construed as advertising or any implication that the club is operated as a public place.

(b) The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.


WAC 314-52-130 Public and civic events. (1) Industry members may sponsor public and civic events and provide the following:

(a) Signage with the industry members name or brand name of their products; and

(b) Programs or flyers to be disseminated at the event.

(2) Acknowledgment of the sponsor, either by name, brand, or both, is allowed in any media advertisement where the function recognizes the sponsors of the event. The size of the alcohol industry sponsor acknowledgment may not exceed the size of the event name.

(3) Inflatables are not allowed inside the event areas.

(4) There may be no giveaways of alcohol promotional items of any kind to persons under twenty-one years of age at events held in public areas including, but not limited to, street fairs, parks, and government buildings.

(5) Industry members may not sponsor a special occasion license at public and civic events. Money may not be given directly to the special occasion licensee, or employees thereof, but industry members may provide the following advertising for a special occasion licensed event:

(a) Signage with the industry members name or brand name of their products;

(b) Media coverage of the event; and
(c) Programs or flyers to be disseminated at the event.

(6) Inflatables are not allowed inside special occasion license areas unless the area is completely enclosed with no view to the inside from the public right of way.

(7) There may be no giveaways of alcohol promotional items of any kind in special occasion license areas.

(8) The board limits each special occasion licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion licensed premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion premises that are visible to the general public from the public right of way to sixteen hundred square inches.

(9) Brand advertising is allowed inside the special occasion license event area where alcohol sales and consumption occur.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-130, filed 3/3/10, effective 4/3/10.]